

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 587 of 1984

Date of decision: 13-09-96

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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ATUL METAL CORPORATION

Versus

MUNICIPAL CORP OF AHMEDABAD  
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Appearance:

MR RM VIN for Petitioner

MR BP TANNA for Respondents  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/09/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner made grievance that the respondent could have levied octroi duty of Rs.720/- from the petitioner as the truck which was carrying the goods had escaped the octroi outpost, but the penalty of Rs.3600/which has been imposed has no legal sanction or authority. It has next been contended that the penalty has been imposed without giving notice to the petitioner. On the other hand learned counsel for the Corporation

contended that the amount of Rs.3600/- is not the amount of penalty. The counsel for the respondent further contended that it may be a case of error, and he reiterated that it is not the amount of penalty. Lastly Mr. Tanna conceded that he has no objection in case this amount of Rs.3600/- is ordered to be refunded to the petitioner .

2. In view of the statement made by the counsel for the respondent I do not consider it proper to go into the merits of the contention raised by the learned counsel for the petitioner. The amount of Rs.3600/- has been erroneously recovered from the petitioner and as such the respondent Corporation has no justification whatsoever to retain the said amount. This amount should have been refunded by the petitioner suo moto on receipt of notice of the special civil application, but that has not been done. The reply to the petition has also not been filed. Therefore it is a case where the petitioner has been deprived of his property. The petitioner is a businessman and he could have put this amount in his business and would have earned sufficient amount out of it. In case at this stage order is made only for refund of the amount of Rs.3600/- then certainly it will cause serious prejudice to the petitioner. The counsel for the petitioner is correct to say that the petitioner should be awarded interest on this amount.

3. In the result this writ petition succeeds. The respondent Corporation is directed to refund to the petitioner Rs.3600/- forthwith. The petitioner shall be entitled to interest on the amount of Rs.3600/- at the rate of 15% per annum from the date of filing of special civil application, i.e. 9-1-1984. The respondent Corporation is further directed to pay Rs.1,000/- (one thousand) to the petitioner by way of cost of this litigation. In case the amount of Rs.3600/- together with interest at the aforesaid rate is not paid to the petitioner within a period of three months from today, then from the date of expiry of three months from today, the entire amount of Rs.3600/- plus interest calculated at the rate of 15% as aforesaid shall be paid together with interest at the rate of 18% per annum till the date of payment. Rule made absolute accordingly. No order as to costs.

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